

**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING:
Whether there has been a violation of the Check
Cashers and Sellers Act of Washington by:

C-04-218-04-TD01

CASH U.S.A., INC., and
NILO TUAZON, President and Director, and
MARITA TUAZON, Secretary and Vice-President,
Respondents.

TEMPORARY ORDER TO
CEASE AND DESIST

THE STATE OF WASHINGTON TO:

Cash U.S.A., Inc.
18230 East Valley Highway, Ste 141
Kent, Washington 98032

AND TO:

Nilo Tuazon
Cash U.S.A., Inc.
10413 SE 174th St., #4255
Renton, Washington 98055

AND TO:

Marita Tuazon
Cash U.S.A., Inc.
10413 SE 174th St., #4255
Renton, Washington 98055

COMES NOW the Director of the Washington State Department of Financial Institutions (Department), by and through her designee, and finding that the public is likely to be substantially injured by delay in issuing a cease and desist order, the Director, through her designee, enters this temporary cease and desist order pursuant to chapter 31.45 RCW, the Check Cashers and Sellers Act (Act), based on the following findings. The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part.

I. FACTUAL FINDINGS

1.1 Respondents:

A. **Cash U.S.A., Inc. (Cash USA)** was incorporated in the State of Washington on November 25, 2002 and has maintained a corporate license in the State of Washington to date.

B. **Nilo Tuazon (N. Tuazon)** is listed as President and a Director of Respondent Cash USA in the Profit Corporation License Renewal and Annual Report filed by Respondents for Respondent Cash USA with the State of Washington Department of Licensing Master Licensing Service in October 2004.

1 C. **Marita Tuazon** is listed as Secretary and Vice-President of Respondent Cash USA in the
2 Profit Corporation License Renewal and Annual Report filed by Respondents for Respondent Cash USA with the
3 State of Washington Department of Licensing Master Licensing Service in October 2004.

4 1.2 **Locations.** The Department has reason to believe that Respondents have engaged in the
5 business of making small loans from the following locations:

6 A. For at least the period beginning July 2003 and ending September 2004, the
7 Department has reason to believe that Respondent Cash USA engaged in the business of making small loans
8 from 6951 Martin Luther King Way, Ste 103 & 104, Seattle, WA 98118.

9 B. For at least the period beginning October 1, 2004 through the date of this order, the
10 Department has reason to believe that Respondent Cash USA engaged in the business of making small loans
11 from 18230 East Valley Highway, Ste 141, Kent, WA 98032.

12 1.3 **Check Casher License with Small Loan Endorsement.** To date, the Department of
13 Financial Institutions of the State of Washington (Department) has not issued a license to, or received an
14 application from, any of the Respondents to conduct the business of a check casher with a small loan
15 endorsement. To date, the Department has not issued a license to, or received an application from, any person
16 to conduct the business of a check casher with a small loan endorsement from either of the addresses listed in
17 paragraphs 1.2A and 1.2B. The Department also has reason to believe that Respondents do not have the
18 statutorily required surety bond to engage in the business of making small loans.

19 1.4 **Unauthorized Making of Small Loans.** The Department has reason to believe that
20 Respondents have engaged in the business of making small loans from the addresses listed in paragraphs 1.2A
21 and 1.2B from at least July 2003 through the date of this order.

22 (a) In the Profit Corporation License Renewal and Annual Report filed for Respondent
23 Cash USA by Respondents with the State of Washington Department of Licensing Master
24 Licensing Service in October 2003, the company's listed address is the same as the address
25 listed in paragraph 1.2A (Suite 104) and the company's business is described as "Check

1 Discounting.” In the Profit Corporation License Renewal and Annual Report filed for
2 Respondent Cash USA by Respondents with the State of Washington Department of Licensing
3 Master Licensing Service in October 2004, the company’s listed address is the same as the
4 address listed in paragraph 1.2B.

5 (b) In or around September 2003, Respondent N. Tuazon filed two (2) complaints with the
6 Seattle City Police Department alleging that in August 2003 two (2) people had fraudulently
7 obtained payday loans from Respondent Cash USA, at the address listed in paragraph 1.2A, by
8 providing checks drawn on bank accounts that had been closed.

9 (c) Two (2) borrowers have provided the Department with declarations that they obtained
10 small loans from Respondents Cash USA and N. Tuazon during the period from August 2004
11 through October 2004 from the locations listed in paragraphs 1.2A and 1.2B, and each of these
12 borrowers has an outstanding small loan with Respondents.

13 (d) One (1) borrower has provided the Department with a copy of a Notice of Small Claim
14 for one thousand one hundred seventy-five dollars (\$1,175.00) for a dishonored one thousand
15 one hundred fifty dollar (\$1,150.00) check written to “Cash USA”, plus a twenty-five dollar
16 (\$25.00) returned check fee, filed in the West Division of the King County District Court by
17 Respondent Cash USA, and a declaration that such claim arises from a check the borrower
18 gave to Respondent Cash USA as part of a small loan transaction.

19 (e) From July 2003 through October 2004, Respondents Cash USA and N. Tuazon filed at
20 least one hundred thirty-nine (139) Small Claims in the West Division of the King County
21 District Court. On October 28, 2004, Department personnel examined the court dockets of
22 twenty-six (26) of these claims and found all were claims to collect on dishonored checks
23 written to Respondent Cash USA. Department personnel further examined the physical files of
24 ten (10) of these claims and found that Respondent Cash USA had entered dishonored checks
25

1 as evidence in six (6) of the files and had entered loan applications completed by borrowers as
2 evidence in five (5) of the files.

3 (f) On October 28, 2004, Department personnel observed Respondents' place of business
4 at the address listed in paragraph 1.2B. Near the street (East Valley Highway), Department
5 personnel observed a removable sign indicating that "Pay Day Loans" were available inside
6 from "Cash U.S.A. Inc." Inside the Great Wall Shopping Mall, Department personnel
7 observed a similar sign in front of the door to a small office, Suite 141.

8 (g) On October 28, 2004, Department personnel obtained a business card from a borrower
9 for "Cash U.S.A., Inc.". This business card lists "Nilo Tuazon" as "C.E.O." and indicates Cash
10 USA makes payday loans from the address listed in paragraph 1.2A.

11 **1.5 Failing to Disclose Terms of Small Loans to Borrowers.** The Department has reason to
12 believe that Respondents have failed to provide borrowers with written agreements or written disclosures of
13 any kind during the course of making small loans.

14 (a) Two (2) borrowers have provided the Department with declarations that they were
15 provided no written agreements or written disclosures of any kind during the course of
16 obtaining small loans from Respondents.

17 (b) Respondent Cash USA did not enter a written loan agreement as evidence in any of the
18 ten (10) small claim files physically examined by Department personnel on October 28, 2004,
19 as discussed in paragraph 1.4(e).

20 **1.6 Making Small Loans in Excess of Statutory Maximum.** The Department has reason to
21 believe that Respondents have provided borrowers with small loans with aggregated principal exceeding seven
22 hundred dollars (\$700.00) at any one time.

23 (a) Two (2) borrowers have provided the Department with declarations that they were
24 given small loans with aggregated principal ranging from eight hundred dollars (\$800.00) to
25 two thousand five hundred dollars (\$2,500.00) at any one time.

1 (b) Four (4) of the small claim files physically examined by Department personnel on
2 October 28, 2004, as discussed in paragraph 1.4(e), involve claims for principal balances
3 which appear to have ranged from eight hundred dollars (\$800.00) to one thousand two
4 hundred dollars (\$1,200.00).

5 1.7 **Charging Interest or Fees on Small Loans in Excess of Statutory Maximum.** The
6 Department has reason to believe that Respondents have charged interest or fees in the aggregate exceeding
7 fifteen percent (15%) of the first five hundred dollars (\$500.00) of principal and ten percent (10%) of the next
8 two hundred dollars (\$200.00) of principal.

9 (a) Two (2) borrowers have provided the Department with declarations that Respondents
10 charge interest or fees equaling, in the aggregate, fifteen percent (15%) of the total principal
11 which, as discussed in paragraph 1.6(a), ranged from eight hundred dollars (\$800.00) to two
12 thousand five hundred dollars (\$2,500.00) at any one time.

13 (b) The borrower who provided the small claims notice to the Department, as discussed in
14 paragraph 1.4(d), has provided a declaration that the small loan transaction consisted of a two-
15 week one thousand dollar (\$1,000.00) loan and one hundred fifty dollars (\$150.00) in interest.

16 (c) The four (4) small claims files physically examined by Department personnel on
17 October 28, 2004 involving small loans with principal amounts which appear to range from
18 eight hundred dollars (\$800.00) to one thousand two hundred dollars (\$1,200.00), as discussed
19 in paragraph 1.6(b), appear to have involved interest calculated at fifteen percent (15%) of the
20 entire principal balances.

21 1.8 **Small Loans Repaid with Proceeds of Successive Small Loans.** The Department has reason
22 to believe that Respondents have allowed borrowers to repay small loans with the proceeds from successive
23 small loans. Two (2) borrowers have provided the Department with declarations that Respondents allowed
24 them to extend their small loans by paying the interest portion of their small loan balance in cash and providing
25

1 Respondents with a new post-dated check or allowing Respondents to change the date on an existing post-dated
2 check.

3 1.9 **Substantial Injury to Public.** The Department has reason to believe that Respondents have
4 caused substantial injury to the public.

5 (a) From at least July 2003 through October 28, 2004, Respondents have: engaged in the
6 business of making small loans without a license, as discussed in paragraphs 1.3 and 1.4; failed
7 to disclose terms of small loans to borrowers, as discussed in paragraph 1.5; made small loans
8 in amounts in excess of the statutory maximum, as discussed in paragraph 1.6; charged interest
9 on small loans in excess of the statutory maximum, as discussed in paragraph 1.7; and allowed
10 borrowers to repay small loans with the proceeds from successive small loans, as discussed in
11 paragraph 1.8. There is reasonable cause to believe that the threat exists for Respondents to do
12 or continue the acts and conduct described in paragraphs 1.3 through 1.8.

13 (b) Of the twenty-six (26) small claims dockets reviewed by Department personnel on
14 October 28, 2004, as discussed in paragraph 1.4(e), Respondents pursued writs of garnishment
15 to enforce eight (8) of their small claim judgments against borrowers.

16 (c) Of the twenty-six (26) small claims dockets reviewed by Department personnel on
17 October 28, 2004, as discussed in paragraph 1.4(e), two (2) borrowers filed for bankruptcy
18 protection from creditors which included Respondents.

19 II. GROUNDS FOR ENTRY OF ORDER

20 2.1 **Definition of Check Casher.** Pursuant to RCW 31.45.010(5), a "Check Casher" is defined as
21 an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole
22 or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same
23 purpose.

24 2.2 **Definition of Licensee.** Pursuant to RCW 31.45.010(12), a "Licensee" is defined as a check
25 cashier or seller licensed by the director to engage in business in accordance with the Act. For the purpose of

1 the enforcement powers of the Act, including the power to issue cease and desist orders under RCW 31.45.110,
2 "licensee" also means a check casher or seller who fails to obtain the license required by the Act.

3 **2.3 Definition of Small Loan.** Pursuant to RCW 31.45.010(19), a "Small Loan" is defined as a
4 loan up to the maximum amount and for a period of time up to the maximum term specified in RCW 31.45.073.
5 (See paragraph 2.7).

6 **2.4 Check Casher License Required.** Based on the above Factual Findings, Respondents are in
7 violation of RCW 31.45.030(1) for engaging in the business of a check casher without first obtaining a license
8 from the Department.

9 **2.5 Small Loan Endorsement Required.** Based on the above Factual Findings, Respondents are
10 in violation of RCW 31.45.070 and RCW 31.45.073 for engaging in the business of making small loans without
11 first obtaining a small loan endorsement from the Director.

12 **2.6 Small Loan Disclosures Required.** Based on the above Factual Findings, Respondents are in
13 violation of RCW 31.45.088(3), WAC 208-630-065 and WAC 208-630-068 for failing to provide disclosures
14 to small loan borrowers including the terms of the small loan, the principal amount of the small loan, the total
15 of payments of the small loan, the fee or interest rate charged by the licensee on the small loan, and the annual
16 percentage rate resulting from this fee or interest rate.

17 **2.7 Statutory Maximum Principal Amount of Small Loan.** Based on the above Factual
18 Findings, Respondents are in violation of RCW 31.45.073(2) for making loans with principal in excess of
19 seven hundred dollars (\$700.00).

20 **2.8 Statutory Maximum Interest or Fees on Small Loan.** Based on the above Factual Findings,
21 Respondents are in violation of RCW 31.45.073(3) for charging interest or fees in the aggregate exceeding
22 fifteen percent (15%) of the first five hundred dollars (\$500.00) of principal and ten percent (10%) of the next
23 two hundred dollars (\$200.00) of principal of the small loans.

24 **2.9 Small Loan Repaid with Proceeds of Another Small Loan.** Based on the above Factual
25 Findings, Respondents are in violation of RCW 31.45.073(4) and WAC 208-630-085(2)(a) for redeeming post

1 dated checks held as collateral for small loans with subsequent post dated checks, and for applying the
2 proceeds of subsequent small loans to outstanding small loans.

3 **2.10 Authority to Examine and Investigate.** Pursuant to RCW 31.45.100, the Director or the
4 Director's designee is authorized at any time to examine and investigate the business and examine the books,
5 accounts, records, and files, or other information, wherever located, of any licensee or person who the Director
6 has reason to believe is engaging in the business governed by this chapter.

7 **2.11 Authority to Issue Cease and Desist Order.** Pursuant to RCW 31.45.120, the Director is
8 authorized to issue a temporary cease and desist order requiring the licensee to cease and desist from a
9 violation or practice whenever the Director determines that the acts specified in RCW 31.45.110 or their
10 continuation are likely to cause insolvency or substantial injury to the public. Based on the above Factual
11 Findings, Respondents have violated RCW 31.45.030(1), RCW 31.45.070, RCW 31.45.073, and RCW
12 31.45.088(3) and based upon reasonable cause the threat exists for Respondents to do or continue the acts and
13 conduct described in the above Factual Findings. Continuation of the unauthorized conduct is reasonably
14 likely because of the outstanding loans with consumers, the outstanding small claims against consumers, and
15 the active operation and advertising of the business. Pursuant to RCW 31.45.120, RCW 31.45.110(1)(b), and
16 RCW 31.45.110(1)(c), the Director determines Respondents' acts and conduct and its continuation is likely to
17 cause substantial injury to the public.

18 **2.12 Effective Date of Temporary Cease and Desist Order.** Pursuant to RCW 31.45.120, the
19 Temporary Cease and Desist Order "becomes effective upon service upon the licensee and remains effective
20 unless set aside, limited, or suspended by a court under RCW 31.45.130 pending the completion of the
21 administrative proceedings under the notice and until such time as the director dismisses the charges specified
22 in the notice or until the effective date of the cease and desist order issued against the licensee under RCW
23 31.45.110."

24 **2.13 Violations Affect the Public Interest.** Pursuant to RCW 31.45.190 the legislature found and
25 declared that any violation of the Act substantially affects the public interest and is an unfair and deceptive act

1 or practice and an unfair method of competition in the conduct of trade or commerce as set forth in RCW
2 19.86.020 of the Consumer Protection Act.

3 **III. ORDER**

4 3.1 Respondents Cash U.S.A., Inc., Nilo Tuazon, and Marita Tuazon are to immediately cease and
5 desist from the making of any small loans and from all small loan activity regulated under chapter 31.45 RCW,
6 the Check Cashers and Sellers Act, at any locations, including but not limited to 18230 East Valley Highway in
7 Kent, Washington.

8 3.2 Respondents Cash U.S.A., Inc., Nilo Tuazon, and Marita Tuazon are to immediately cease and
9 desist from engaging in any loan business or from negotiation of loan activity regulated under chapter 31.45
10 RCW, the Check Cashers and Sellers Act, at any locations including but not limited to 18230 East Valley
11 Highway in Kent, Washington.

12 3.3 Respondents Cash U.S.A., Inc., Nilo Tuazon, and Marita Tuazon are to retain all records of
13 any small loan or loan activity and make these records immediately available for the Department's inspection
14 pursuant to Subpoena to Produce Records, C-04-218-04-SB01, issued by the Department and served on
15 Respondents contemporaneously with this Temporary Order to Cease and Desist.

16 3.4 Based on the above Factual Findings and Grounds for Entry of Order and pursuant to RCW
17 31.45.120, RCW 31.45.110(1)(b), and RCW 31.45.110(1)(c), the Director determines the acts and conduct of
18 Respondents Cash U.S.A., Inc., Nilo Tuazon, and Marita Tuazon and the continuation of such conduct is likely
19 to cause substantial injury to the public.

20 3.5 This order shall take effect immediately and shall remain in effect unless set aside, limited, or
21 suspended by a court under RCW 31.45.130.

22 **NOTICE**

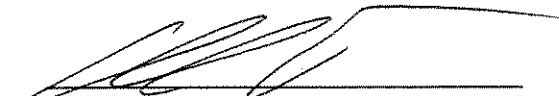
23 YOU ARE ENTITLED TO A HEARING PURSUANT TO CHAPTER 31.45 RCW TO DETERMINE
24 WHETHER THIS ORDER SHALL BECOME PERMANENT. IF YOU DESIRE A HEARING, THEN YOU
25 MUST RETURN THE ATTACHED APPLICATION FOR ADJUDICATIVE HEARING INCORPORATED

1 HEREIN BY THIS REFERENCE. FAILURE TO COMPLETE AND RETURN THE APPLICATION FOR
2 ADJUDICATIVE HEARING FORM SO THAT IT IS RECEIVED BY THE DEPARTMENT OF FINANCIAL
3 INSTITUTIONS WITHIN TWENTY (20) DAYS OF THE DATE THAT THIS ORDER WAS SERVED ON
4 YOU WILL CONSTITUTE A DEFAULT AND WILL RESULT IN THE LOSS OF YOUR RIGHT TO A
5 HEARING. SERVICE ON YOU IS DEFINED AS POSTING IN THE U.S. MAIL, POSTAGE PREPAID, TO
6 YOUR LAST KNOWN ADDRESS. BE ADVISED THAT DEFAULT WILL RESULT IN THIS ORDER TO
7 CEASE AND DESIST BECOMING PERMANENT ON THE TWENTY-FIRST (21ST) DAY FOLLOWING
8 SERVICE OF THIS ORDER UPON YOU.

9
10 WITHIN TEN DAYS AFTER YOU HAVE BEEN SERVED WITH THIS TEMPORARY CEASE
11 AND DESIST ORDER, YOU MAY APPLY TO THE SUPERIOR COURT IN THE COUNTY OF YOUR
12 PRINCIPAL PLACE OF BUSINESS FOR AN INJUNCTION SETTING ASIDE, LIMITING, OR
13 SUSPENDING THIS ORDER PENDING THE COMPLETION OF THE ADMINISTRATIVE
14 PROCEEDINGS PURSUANT TO THIS NOTICE.

15 DATED this 2nd day of November, 2004.



16
17 
18 CHUCK CROSS
19 Director and Enforcement Chief
20 Division of Consumer Services
21 Department of Financial Institutions
22
23
24
25

1 **RCW 31.45.010 Definitions.**

2 Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

3 ...

4 (5) "Check casher" means an individual, partnership, unincorporated association, or corporation that, for compensation, engages, in whole or in part, in the business of cashing checks, drafts, money orders, or other commercial paper serving the same purpose.

5 ...

6 (12) "Licensee" means a check casher or seller licensed by the director to engage in business in accordance with this chapter. For purposes of the enforcement powers of this chapter, including the power to issue cease and desist orders under RCW 31.45.110, "licensee" also means a check casher or seller who fails to obtain the license required by this chapter.

7 ...

8 (19) "Small loan" means a loan of up to the maximum amount and for a period of time up to the maximum term specified in RCW 31.45.073.

9 ...

10 [2003 c 86 § 1; 1995 c 18 § 1; 1994 c 92 § 274; 1993 c 143 § 1; 1991 c 355 § 1.]

11 **RCW 31.45.030 License required -- Small loan endorsement -- Application -- Fee -- Bond -- Deposit in lieu of bond -**
12 **- Director's duties.**

13 (1) Except as provided in RCW 31.45.020, no check casher or seller may engage in business without first obtaining a license from the director in accordance with this chapter. A license is required for each location where a licensee engages in the business of cashing or selling checks or drafts.

14 (2) Each application for a license shall be in writing in a form prescribed by the director and shall contain the following information:

15 (a) The legal name, residence, and business address of the applicant and, if the applicant is a partnership, association, or corporation, of every member, officer, and director thereof;

16 (b) The location where the initial registered office of the applicant will be located in this state;

17 (c) The complete address of any other locations at which the applicant proposes to engage in business as a check casher or seller; and

18 (d) Such other data, financial statements, and pertinent information as the director may require with respect to the applicant, its directors, trustees, officers, members, or agents.

19 (3) Any information in the application regarding the personal residential address or telephone number of the applicant, and any trade secret as defined in RCW 19.108.010 including any financial statement that is a trade secret, is exempt from the public records disclosure requirements of chapter 42.17 RCW.

20 (4) The application shall be filed together with an investigation and supervision fee established by rule by the director. Such fees collected shall be deposited to the credit of the financial services regulation fund in accordance with RCW 43.320.110.

21 (5)(a) Before granting a license to sell checks, drafts, or money orders under this chapter, the director shall require that the licensee file with the director a surety bond running to the state of Washington, which bond shall be issued by a surety insurer which meets the requirements of chapter 48.28 RCW, and be in a format acceptable to the director. The director shall adopt rules to determine the penal sum of the bond that shall be filed by each licensee. The bond shall be conditioned upon the licensee paying all persons who purchase checks, drafts, or money orders from the licensee the face value of any check, draft, or money order which is dishonored by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed. The bond shall only be liable for the face value of the dishonored check, draft, or money order, and shall not be liable for any interest or consequential damages.

22 (b) Before granting a small loan endorsement under this chapter, the director shall require that the licensee file with the director a surety bond, in a format acceptable to the director, issued by a surety insurer that meets the requirements of

chapter 48.28 RCW. The director shall adopt rules to determine the penal sum of the bond that shall be filed by each licensee. A licensee who wishes to engage in both check selling and making small loans may combine the penal sums of the bonding requirements and file one bond in a form acceptable to the director. The bond shall run to the state of Washington as obligee, and shall run to the benefit of the state and any person or persons who suffer loss by reason of the licensee's violation of this chapter or any rules adopted under this chapter. The bond shall only be liable for damages suffered by borrowers as a result of the licensee's violation of this chapter or rules adopted under this chapter, and shall not be liable for any interest or consequential damages.

(c) The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director and licensee of its intent to cancel the bond. The cancellation is effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any liability of the licensee for tortious acts, whether or not such liability is imposed by statute or common law, or is imposed by contract. The bond shall not be a substitute or supplement to any liability or other insurance required by law or by the contract. If the surety desires to make payment without awaiting court action against it, the penal sum of the bond shall be reduced to the extent of any payment made by the surety in good faith under the bond.

(d) Any person who is a purchaser of a check, draft, or money order from the licensee having a claim against the licensee for the dishonor of any check, draft, or money order by the drawee bank, savings bank, or savings and loan association due to insufficient funds or by reason of the account having been closed, or who obtained a small loan from the licensee and was damaged by the licensee's violation of this chapter or rules adopted under this chapter, may bring suit upon such bond or deposit in the superior court of the county in which the check, draft, or money order was purchased, or in the superior court of a county in which the licensee maintains a place of business. Jurisdiction shall be exclusively in the superior court. Any such action must be brought not later than one year after the dishonor of the check, draft, or money order on which the claim is based. In the event valid claims against a bond or deposit exceed the amount of the bond or deposit, each claimant shall only be entitled to a pro rata amount, based on the amount of the claim as it is valid against the bond, or deposit, without regard to the date of filing of any claim or action.

(e) In lieu of the surety bond required by this section, the applicant for a check seller license may file with the director a deposit consisting of cash or other security acceptable to the director in an amount equal to the penal sum of the required bond. In lieu of the surety bond required by this section, the applicant for a small loan endorsement may file with the director a deposit consisting of cash or other security acceptable to the director in an amount equal to the penal sum of the required bond, or may demonstrate to the director net worth in excess of three times the amount of the penal sum of the required bond.

The director may adopt rules necessary for the proper administration of the security or to establish reporting requirements to ensure that the net worth requirements continue to be met. A deposit given instead of the bond required by this section is not an asset of the licensee for the purpose of complying with the liquid asset provisions of this chapter. A deposit given instead of the bond required by this section is a fund held in trust for the benefit of eligible claimants under this section and is not an asset of the estate of any licensee that seeks protection voluntarily or involuntarily under the bankruptcy laws of the United States.

(f) Such security may be sold by the director at public auction if it becomes necessary to satisfy the requirements of this chapter. Notice of the sale shall be served upon the licensee who placed the security personally or by mail. If notice is served by mail, service shall be addressed to the licensee at its address as it appears in the records of the director. Bearer bonds of the United States or the state of Washington without a prevailing market price must be sold at public auction. Such bonds having a prevailing market price may be sold at private sale not lower than the prevailing market price. Upon any sale, any surplus above amounts due shall be returned to the licensee, and the licensee shall deposit with the director additional security sufficient to meet the amount required by the director. A deposit given instead of the bond required by this section shall not be deemed an asset of the licensee for the purpose of complying with the liquid asset provisions of this chapter.

[2003 c 86 § 3; 2001 c 177 § 11; 1995 c 18 § 4; 1994 c 92 § 276; 1993 c 176 § 1; 1991 c 355 § 3.]

RCW 31.45.070 Licensee -- Permissible transactions -- Restrictions.

(1) No licensee may engage in a loan business or the negotiation of loans or the discounting of notes, bills of exchange, checks, or other evidences of debt on the same premises where a check cashing or selling business is conducted, unless the licensee:

- (a) Is conducting the activities of pawnbroker as defined in RCW 19.60.010;
- (b) Is a properly licensed consumer loan company under chapter 31.04 RCW;
- (c) Is conducting other lending activity permitted in the state of Washington; or
- (d) Has a small loan endorsement.

(2) Except as otherwise permitted in this chapter, no licensee may at any time cash or advance any moneys on a postdated check or draft. However, a licensee may cash a check payable on the first banking day following the date of cashing if:

(a) The check is drawn by the United States, the state of Washington, or any political subdivision of the state, or by any department or agency of the state or its subdivisions; or

(b) The check is a payroll check drawn by an employer to the order of its employee in payment for services performed by the employee.

(3) Except as otherwise permitted in this chapter, no licensee may agree to hold a check or draft for later deposit. A licensee shall deposit all checks and drafts cashed by the licensee as soon as practicable.

(4) No licensee may issue or cause to be issued any check, draft, or money order, or other commercial paper serving the same purpose, that is drawn upon the trust account of a licensee without concurrently receiving the full principal amount, in cash, or by check, draft, or money order from a third party believed to be valid.

(5) No licensee may advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, any statement or representation that is false, misleading, or deceptive, or that omits material information, or that refers to the supervision of the licensee by the state of Washington or any department or official of the state.

(6) Each licensee shall comply with all applicable federal statutes governing currency transaction reporting.

[2003 c 86 § 7; 1995 c 18 § 7; 1994 c 92 § 280; 1991 c 355 § 7.]

RCW 31.45.073 Making small loans -- Endorsement required -- Termination date -- Maximum amount -- Interest -- Fees -- Postdated check or draft as security.

(1) No licensee may engage in the business of making small loans without first obtaining a small loan endorsement to its license from the director in accordance with this chapter. An endorsement will be required for each location where a licensee engages in the business of making small loans, but a small loan endorsement may authorize a licensee to make small loans at a location different than the licensed locations where it cashes or sells checks. A licensee may have more than one endorsement.

(2) The termination date of a small loan may not exceed the origination date of that same small loan by more than forty-five days, including weekends and holidays, unless the term of the loan is extended by agreement of both the borrower and the licensee and no additional fee or interest is charged. The maximum principal amount of any small loan, or the outstanding principal balances of all small loans made by a licensee to a single borrower at any one time, may not exceed seven hundred dollars.

(3) A licensee that has obtained the required small loan endorsement may charge interest or fees for small loans not to exceed in the aggregate fifteen percent of the first five hundred dollars of principal. If the principal exceeds five hundred dollars, a licensee may charge interest or fees not to exceed in the aggregate ten percent of that portion of the principal in excess of five hundred dollars. If a licensee makes more than one loan to a single borrower, and the aggregated principal of all loans made to that borrower exceeds five hundred dollars at any one time, the licensee may charge interest or fees not to exceed in the aggregate ten percent on that portion of the aggregated principal of all loans at any one time that is in excess of five hundred dollars. The director may determine by rule which fees, if any, are not subject to the interest or fee

1 limitations described in this section. It is a violation of this chapter for any licensee to knowingly loan to a single borrower
2 at any one time, in a single loan or in the aggregate, more than the maximum principal amount described in this section.

3 (4) In connection with making a small loan, a licensee may advance moneys on the security of a postdated check. The
4 licensee may not accept any other property, title to property, or other evidence of ownership of property as collateral for a
5 small loan. The licensee may accept only one postdated check per loan as security for the loan. A licensee may permit a
6 borrower to redeem a postdated check with a payment of cash or the equivalent of cash. The licensee may disburse the
7 proceeds of a small loan in cash, in the form of a check, or in the form of the electronic equivalent of cash or a check.

8 (5) No person may at any time cash or advance any moneys on a postdated check or draft in excess of the amount of goods
9 or services purchased without first obtaining a small loan endorsement to a check casher or check seller license.

10 [2003 c 86 § 8; 1995 c 18 § 2.]

11 **RCW 31.45.088 Small loans -- Disclosure requirements -- Advertising -- Making loan.**

12 ...
13 (3) When making a small loan, each licensee shall disclose to the borrower the terms of the small loan, including the
14 principal amount of the small loan, the total of payments of the small loan, the fee or interest rate charged by the licensee on
15 the small loan, and the annual percentage rate resulting from this fee or interest rate.
16 ...

17 [2003 c 86 § 14.]

18 **RCW 31.45.100 Examination or investigation -- Director's authority -- Costs.**

19 The director or the director's designee may at any time examine and investigate the business and examine the books,
20 accounts, records, and files, or other information, wherever located, of any licensee or person who the director has reason to
21 believe is engaging in the business governed by this chapter. For these purposes, the director or the director's designee may
22 require the attendance of and examine under oath all persons whose testimony may be required about the business or the
23 subject matter of the investigation. The director or the director's designee may require the production of original books,
24 accounts, records, files, or other information, or may make copies of such original books, accounts, records, files, or other
25 information. The director or the director's designee may issue a subpoena or subpoena duces tecum requiring attendance
and testimony, or the production of the books, accounts, records, files, or other information. The director shall collect from
the licensee the actual cost of the examination or investigation.

[2003 c 86 § 16; 1994 c 92 § 283; 1991 c 355 § 10.]

26 **RCW 31.45.110 Violations or unsound financial practices -- Statement of charges -- Hearing -- Sanctions -- Director's authority.**

27 (1) The director may issue and serve upon a licensee or applicant a statement of charges if, in the opinion of the director,
28 any licensee or applicant:

29 (a) Is engaging or has engaged in an unsafe or unsound financial practice in conducting the business of a check seller
30 governed by this chapter;

31 (b) Is violating or has violated this chapter, including rules, orders, or subpoenas, any rule adopted under chapter 86,
32 Laws of 2003, any order issued under chapter 86, Laws of 2003, any subpoena issued under chapter 86, Laws of 2003, or
33 any condition imposed in writing by the director or the director's designee in connection with the granting of any
34 application or other request by the licensee or any written agreement made with the director;

35 (c) Is about to do the acts prohibited in (a) or (b) of this subsection when the opinion that the threat exists is based upon
reasonable cause;

(d) Obtains a license by means of fraud, misrepresentation, concealment, or through mistake or inadvertence of the
director;

(e) Provides false statements or omissions of material information on the application that, if known, would have allowed
the director to deny the application for the original license;

(f) Fails to pay a fee required by the director or maintain the required bond;

(g) Commits a crime against the laws of the state of Washington or any other state or government involving moral

1 turpitude, financial misconduct, or dishonest dealings;

2 (h) Knowingly commits or is a party to any material fraud, misrepresentation, concealment, conspiracy, collusion, trick,
3 scheme, or device whereby any other person relying upon the word, representation, or conduct acts to his or her injury or
4 damage;

5 (i) Converts any money or its equivalent to his or her own use or to the use of his or her principal or of any other person;

6 (j) Fails, upon demand by the director or the director's designee, to disclose any information within his or her knowledge
7 to, or to produce any document, book, or record in his or her possession for inspection of, the director or the director's
8 designee;

9 (k) Commits any act of fraudulent or dishonest dealing, and a certified copy of the final holding of any court, tribunal,
10 agency, or administrative body of competent jurisdiction regarding that act is conclusive evidence in any hearing under this
11 chapter; or

12 (l) Commits an act or engages in conduct that demonstrates incompetence or untrustworthiness, or is a source of injury
13 and loss to the public.

14 (2) The statement of charges shall be issued under chapter 34.05 RCW. The director or the director's designee may impose
15 the following sanctions against any licensee or applicant, or any director, officer, sole proprietor, partner, controlling
16 person, or employee of a licensee or applicant:

17 (a) Deny, revoke, suspend, or condition the license;

18 (b) Order the licensee to cease and desist from practices in violation of this chapter or practices that constitute unsafe
19 and unsound financial practices in the sale of checks;

20 (c) Impose a fine not to exceed one hundred dollars per day for each day's violation of this chapter;

21 (d) Order restitution to borrowers or other parties damaged by the licensee's violation of this chapter or take other
22 affirmative action as necessary to comply with this chapter; and

23 (e) Remove from office or ban from participation in the affairs of any licensee any director, officer, sole proprietor,
24 partner, controlling person, or employee of a licensee.

25 (3) The proceedings to impose the sanctions described in subsection (2) of this section, including any hearing or appeal of
the statement of charges, are governed by chapter 34.05 RCW.

Unless the licensee personally appears at the hearing or is represented by a duly authorized representative, the licensee is
deemed to have consented to the statement of charges and the sanctions imposed in the statement of charges.

[2003 c 86 § 17; 1994 c 92 § 284; 1991 c 355 § 11.]

RCW 31.45.120 Violations or unsound practices -- Temporary cease and desist order -- Director's authority.

Whenever the director determines that the acts specified in RCW 31.45.110 or their continuation is likely to cause
insolvency or substantial injury to the public, the director may also issue a temporary cease and desist order requiring the
licensee to cease and desist from the violation or practice. The order becomes effective upon service upon the licensee and
remains effective unless set aside, limited, or suspended by a court under RCW 31.45.130 pending the completion of the
administrative proceedings under the notice and until such time as the director dismisses the charges specified in the notice
or until the effective date of the cease and desist order issued against the licensee under RCW 31.45.110.

[2003 c 86 § 18; 1994 c 92 § 285; 1991 c 355 § 12.]

RCW 31.45.130 Temporary cease and desist order -- Licensee's application for injunction.

Within ten days after a licensee has been served with a temporary cease and desist order, the licensee may apply to the
superior court in the county of its principal place of business for an injunction setting aside, limiting, or suspending the
order pending the completion of the administrative proceedings pursuant to the notice served under RCW 31.45.120. The
superior court has jurisdiction to issue the injunction.

[1991 c 355 § 13.]

RCW 31.45.190 Violation -- Consumer protection act -- Remedies.

The legislature finds and declares that any violation of this chapter substantially affects the public interest and is an unfair
and deceptive act or practice and an unfair method of competition in the conduct of trade or commerce as set forth in RCW
19.86.020. Remedies available under chapter 19.86 RCW shall not affect any other remedy the injured party may have.

[1991 c 355 § 19.]